

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**SUZANNE BRENNER, AND BRIAN
BRENNER, HER HUSBAND,**

Plaintiffs,

v.

**GATEWAY HOSPITALITY
PARKERSBURG, LLC D/B/A
COMFORT SUITES-PARKERSBURG,**

Defendant.

Case No. 2:16-cv-08112
(Removed from Wood County Circuit
Court Civil Action No. 16-C-301)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§1332, 1441 and 1446, the Defendant Gateway Hospitality Parkersburg, LLC d/b/a Comfort Suites - Parkersburg (“Gateway”), by counsel, hereby gives notice of the removal of this action from the Circuit Court of Wood County, West Virginia, Civil Action No. 16-C-301, to the United States District Court for the Southern District of West Virginia. In support of this Notice of Removal, Defendant Gateway states as follows:

1. Gateway is the named Defendant in the civil action filed in the Circuit Court of Wood County, West Virginia, styled Suzanne Brenner and Brian Brenner, her husband, Plaintiff v. Gateway Hospitality Parkersburg, LLC, d/b/a Comfort Suites - Parkersburg, Defendant, Civil Action No. 16-C-301.

2. Copies of the Summons and Plaintiffs’ Complaint were served on Gateway through the Secretary of State on August 5, 2016 (see **Exhibit A**, certified copy of the state court file).

3. This action is a civil action in which this Court has jurisdiction, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, in that:

- a. Gateway Hospitality Parkersburg, LLC is a foreign limited liability company, organized in the State of Virginia, with its principal place of business located at 135 South Holliday Street, Strasburg, Virginia.
- b. Plaintiffs Suzanne Brenner and Brian Brenner are residents of Bell River, Ontario, Canada. Upon information and belief, the Plaintiffs also spend a portion of each year in Florida. As such, the Plaintiffs may also qualify as permanent resident aliens of the State of Florida.
- c. Complete diversity exists as between the parties, as Plaintiffs and Defendants are residents of different states.
- d. The amount in controversy in this civil action exceeds the amount of \$75,000.00, exclusive of interest and costs, inasmuch as Plaintiffs' Complaint seeks recovery from Gateway for damages to Plaintiff Suzanne Brenner, who allegedly sustained a severe back injury and claims leg pain as a result of a large paracentral disc protrusion with extended component at the L1-L2 level; surgery for a right sided foraminotomy and microdisectomy of L1-L2, L2-L3 and L4-L5, removing extradural disc and ligamentum flavum at L2; months of hospital stays; a T1-T11 laminectomy and removal of nerve stimulator; an L1-L4 laminectomy and decompression with removal of a second nerve stimulator; an L2-L3 disectomy and removal of disk; repair of a CSF leak with duraplasty and DuraSeal; use of local anesthetic and nerve blocks for pain management; the need for home health care assistance; and a claim for permanent physical limitations.
- e. Plaintiffs claim significant medical expenses related to Suzanne Brenner's medical treatment, including multiple surgical procedures and fusions. In addition, Plaintiffs assert that Mrs. Brenner will need to undergo a third surgery due to her fall.
- f. Plaintiffs have not stipulated that the amount in controversy is less than \$75,000.00 and that they are seeking \$75,000.00 or less in connection with their action against Defendant.

5. This action, therefore, is properly removable by Gateway pursuant to 28 U.S.C. §1332, 1441, and 1446.

6. This Notice of Removal is filed within thirty days of service of the Summons and Complaint upon Gateway.

7. Gateway has filed a copy of this Notice of Removal with the Circuit Court of Wood County, West Virginia.

WHEREFORE, Defendant respectfully requests that this case proceed before this Court as an action properly removed from the Circuit Court of Wood County, West Virginia.

**GATEWAY HOSPITALITY PARKERSBURG,
LLC d/b/a COMFORT SUITES -
PARKERSBURG**

By counsel,

/s/ *Brent K. Kesner*

Brent K. Kesner (WVSB #2022)
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CERTIFICATE OF SERVICE

I, Brent K. Kesner, counsel for Gateway Hospitality Parkersburg, LLC d/b/a Comfort Suites - Parkersburg, do hereby certify that service of the foregoing **NOTICE OF REMOVAL** has been made upon counsel of record by mailing a true and exact copy thereof to:

Brian J. Headley, Esq.
Headley Law LLC
1156 Bowman Road, Suite 200
Mount Pleasant, SC 29464

Bruce M. White, Esq.
The Law Offices of Bruce M. White, LLC
720 Juliana Street
Parkersburg, WV 26101

Carole Jones, Clerk
Wood County Circuit Court
Wood County Judicial Building
2 Government Square, Room 131
Parkersburg, WV 26101

in a properly addressed envelope, postage prepaid, and depositing the same in the regular course of the United States mail this **24th day of August, 2016.**

/s/ *Brent K. Kesner*

Brent K. Kesner (WVSB #2022)
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